

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency Crime Victims' Compensation Commission
Rule No. 262-x-11-.01

Rule Title: Sexual Assault Examination Payment Program.

_____ New x Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the
state's police power and the protection of the
public health, safety, or welfare? Yes

Is there another, less restrictive method of
regulation available that could adequately protect
the public? No

Does the propounded rule have the effect of directly
or indirectly increasing the costs of any goods or
services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the
public than the harm that might result from the
absence of the proposed rule? N/A

Are all facets of the rulemaking process designed
solely for the purpose of, and so they have, as
their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is
required to be accompanied by a fiscal note prepared in accordance with
subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full
compliance with the requirements of Chapter 22, Title 41, Code of Alabama
1975, and that it conforms to all applicable filing requirements of the
Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 12/12/13

REC'D & FILED

DEC 12 2013

LEGISLATIVE REFERENCE SERVICE

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-X-11-.01, Sexual Assault Payment Program.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the current rule to provide clarification for requesting payment through the Sexual Assault Payment Program.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, 5845 Carmichael Rd; Post Office Box 231267, Montgomery, Alabama 36123-1267, or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on February 5, 2014. All comments should be addressed to the contact person listed below or oral comments at 334.290.4420.

CONTACT PERSON AT AGENCY: Kim Z. Martin, General Counsel, Alabama Crime Victims' Compensation Commission, 5845 Carmichael Rd; Post Office Box 231267, Montgomery, Alabama 36123-1267.



Cassie T. Jones, Ed.D.

Executive Director

CHAPTER 262-X-11 SEXUAL ASSAULT

262-X-11-.01 Sexual Assault Examination Payments Program.

Program Description: This section provides for payment of the initial forensic examination which is performed on victims of sexual offenses violence for the purpose of obtaining evidence to potentially pursue criminal charges against sexual assault offenders and for the prevention and treatment of venereal disease. Expenses incurred for processing sexual assault ~~examination~~ evidence collection kits are eligible. ~~Sexual assault examination kits developed by the Alabama Department of Forensics and comparable kits shall be eligible for payment pursuant to this section.~~ Child sexual assault examinations shall also be eligible for payment pursuant to this section.

~~(1) Application and Payment Procedures~~

~~(a) Charges for the sexual assault examination must be submitted by a hospital, physician or SANE (Sexual Assault Nurse Examiner) program to be eligible for payment pursuant to this section.~~

~~(b) Payment for the examination shall be made regardless of whether the victim pursues prosecution of the offender.~~

~~(c) Testing and preventative treatment for sexually transmitted diseases and pregnancy shall be eligible for payment pursuant to this section when submitted with proper documentation. The victim must make application for compensation to have other treatment related to the incident considered for payment.~~

~~(2) Payment for the following shall not be eligible for payment under this section:~~

~~(a) treatment for injuries;~~

~~(b) medication such as anti-depressants, sedatives or tranquilizers.~~

~~(c) Payment shall be submitted directly to the service provider unless payment has been made by the victim in which case the victim shall be reimbursed.~~

1) AUTHORITY

Code of Alabama § 15-23-5 (24) (1995), which provides:

The commission shall have all the powers and privileges of a corporation and all of its business shall be transacted in the name of the commission. In addition to

any other powers and duties specified elsewhere in this article, the commission shall have the power to: Provide for the cost of medical examinations for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses.

2) DEFINITIONS

- a) Sexual Assault Nurse Examiner: a registered nurse who has received specialized training and certification that qualifies him/her to conduct sexual assault examinations for adult and child victims of sexual assault for the purpose of gathering and preserving evidence for potential use in a criminal prosecution. A Sexual Assault Nurse Examiner may also administer prophylaxis against venereal disease.
- b) Sexual Assault Examination: a physical examination performed by a registered nurse or physician in a hospital or medical clinic or a Sexual Assault Nurse Examiner in a SANE facility on adult and child victims of sexual assault for the purpose of gathering and preserving evidence for potential use in a criminal prosecution and the treatment and prevention of venereal disease.
- c) Sexual Assault Nurse Examiner Fee: Fee paid for the professional services of a Sexual Assault Nurse Examiner.
- d) SANE Facility: A community or hospital based program that provides for the collection and preservation of evidence in cases of sexual violence, as well as the treatment and prevention of venereal disease in a compassionate, victim-sensitive setting.
- e) SANE Facility Fee: Fee paid for a SANE facility's cost of providing a sexual assault examination room which includes prorated (if the SANE facility is not the only program housed in the building) operating and overhead costs related to the SANE facility; administrative costs related to SANE facility; supplies for the sexual assault examination; equipment for the sexual assault examination; equipment maintenance; clothing for the victim; and any other expense directly related to providing a sexual assault examination and a sexual assault examination room. The SANE facility fee does not include any item contained in the *Sexual Assault Evidence Collection Kit* which is provided free of charge by the Alabama Department of Forensic Sciences.

3) COLLATERAL SOURCE

- a) Any expense associated with a sexual assault examination covered or paid by another source will not be reimbursed by the Commission.
- b) Code of Alabama § 15-23-3 (13) (1995) defines collateral source as follows:
 - (a) COLLATERAL SOURCE. Source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the compensation commission which the claimant has received or is entitled to receive or is readily available to the claimant, from any one or more of the following:
 - a. The offender.
 - b. The government of the United States or any agency thereof, in the form of benefits, such as Social Security, Medicare and Medicaid, a state or any of its political subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this article.
 - c. Any temporary nonoccupational disability insurance.
 - d. Workers' compensation.
 - e. Wage continuation programs of any employer.
 - f. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct.
 - g. A contract providing prepaid hospital and other health care services or benefits for disability.
- c) Any collateral source available for the payment of a sexual assault examination must be utilized prior to submitting a sexual assault examination to the Commission's Sexual Assault Examination Payment Program.
 - i) A hospital, medical clinic, or SANE facility should not bill the victim of sexual violence for the sexual assault examination. Alabama Attorney General Troy King's *Protocol for the Examination and Treatment of Victims of Sexual Assault* states "victims should not be billed for sexual assault examinations." Alabama Attorney General Troy King's *Protocol for the Examination and Treatment of Victims of Sexual Assault*, page 20.

4) ELIGIBILITY AND PAYMENT PROCEDURES

- 5) Sexual assault examinations performed on or after July 27, 1995, may be considered for payment.
- 6) Exams Performed in Hospitals and Medical Clinics
 - a) Sexual assault examinations performed by a registered nurse or physician in a hospital or medical clinic for the purpose of gathering evidence and treating and preventing venereal disease will be considered for payment.
 - i) Hospitals and medical clinics must submit the current version of an UB form, itemized bill, and medical records.
 - b) Sexual assault examinations performed in a hospital or medical clinic will be reviewed to determine the reasonableness and eligibility of the charges.
 - i) If after the Commission's review of the charges, they are found to be charged at an excessive rate and/or not rendered for the purpose of gathering evidence and/or treating and preventing venereal disease, the charges will be denied for payment.
 - ii) If after the Commission's review of the charges, it is determined that they do not comply with the Alabama Attorney General's *Protocol for the Examination and Treatment of Victims of Sexual Assault*, the charges will be denied for payment.
 - iii) If the charges are determined to be excessive, the hospital or medical clinic will be contacted to negotiate the submitted expenses.
 - c) A facility fee shall not be paid when a sexual assault examination is performed at a hospital, medical clinic or any facility other than a SANE facility.
- 7) Exams Performed by a Sexual Assault Nurse Examiner (SANE).
 - a) Each itemized bill or statement for a sexual assault examination will be considered for payment in the order that it is received.
 - b) Each itemized bill or statement will be reviewed for accuracy and any unsupported or ineligible charges will not be reimbursed.
 - c) The Commission will provide reimbursement for "Jane Doe" sexual assault examinations performed on adult victims.
 - d) The Commission will not reimburse for "Jane Doe" sexual assault examinations for minors.
 - e) Each itemized bill or statement must identify the International Classification of Diseases (ICD-9) code.

- f) Each billed procedure, service or supply/medication must be itemized.
 - g) Each billed procedure, service or supply/medication must include the appropriate Physicians' Current Procedural Terminology (CPT) code.
 - h) The itemization for each billed procedure, service or supply/medication must include the charge for each line item.
- 8) The initial forensic examination will be considered for payment. Only services rendered and medications provided "for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses" will be considered pursuant to the Commission's Sexual Assault Examination Payment Policy.
- a) Each itemized bill or statement must include a copy of the completed Sexual Assault Information Form (AL102) that is included in the State of Alabama Collection Kit provided by the Alabama Department of Forensic Sciences or equivalent documentation. Alabama Department of Forensic Sciences provides collection kits free of charge and payment will not be provided for the kits.
 - b) Signed, written confirmation from an employee of the SANE facility that the sexual assault was reported to the Department of Human Resources (DHR) or law enforcement must be provided in cases in which the victim is a minor. If confirmation is not received, the sexual assault examination will not be considered for payment.
- 9) COLLECTION OF EVIDENCE WITHIN 72 HOURS
- a) If it determined that the sexual assault took place more than 72 hours prior to the sexual assault examination, the use of an evidence collection kit may not be necessary. *Alabama Attorney General' Alabama Protocol for the Examination and Treatment of Victims of Sexual Assault.*
 - i) The reasonableness of the charges for sexual assault examinations performed after 72 hours will be determined on a case-by-case basis.
 - (1) The age, mental capacity, and the victim's ability to seek a sexual assault examination within 72 hours of the assault will be considered when making a determination regarding the reasonableness of a sexual assault exam performed more than 72 hours after the sexual assault.
- 10) INELIGIBLE EXPENSES
- a) The following expenses are not eligible pursuant to the Commission's Sexual Assault Examination Payment Program:
 - i) treatment for injuries;

- ii) medication for any purpose other than the treatment and prevention of venereal disease;
- iii) hospital admissions.
- b) All sexual assault victims should be provided a crime victims' compensation application. Expenses that are ineligible pursuant to the Commission's Sexual Assault Examination Payment Program may be eligible for crime victims' compensation benefits.

11) FALSE REPORTS

- i) The Commission will not compensate for a sexual assault examination if it is determined that a rape or sexual assault did not occur. Examples of false reports include, but are not limited to, consensual sexual contact and no sexual contact.

12) SEXUAL ASSAULT EXAMINATIONS CONDUCTED ON ALLEGED PERPETRATORS/OFFENDERS

- (1) The Commission does not provide for the cost of sexual assault examinations performed on alleged perpetrators/offenders.

13) PAYMENT LIMITS FOR SEXUAL ASSAULT EXAMINATION PAYMENT PROGRAM

- a) Sexual Assault Nurse Examiner Fee: \$300
- b) SANE Facility Fee: \$150
- c) Medication Limitations
 - i) One gram azithromycin (Zithromax) or equivalent drug: \$39.50 each
 - ii) 500 mg ciprofloxacin or equivalent drug: \$12 each
 - iii) 100 mg doxycycline or equivalent drug: \$1 each
 - iv) 500 mg metronidazole (Flagyl) or equivalent drug: \$5.50 each
 - v) Ofloxacin or equivalent drug: \$12 each
 - vi) 250 mg Ceftriaxone or equivalent drug: \$90.36 each
 - vii) Ceftriaxone drug administration fee: \$10
 - viii) Ovral or equivalent drug: \$4.50 each
 - ix) 12.5 mg promethazine (Phenergan) or equivalent drug: \$2.50 each
 - x) 10 mcg Recombivax or equivalent drug: \$40 each
 - xi) Zovia or equivalent drug: \$10 each
- d) Procedure Limitations
 - i) Suspected drug facilitated screening: \$95
 - ii) Colposcope exam \$50
 - iii) UV light screening \$20
 - iv) Pregnancy test \$10
 - v) Venipuncture \$10

vi) <u>Microscopic sperm screening</u>	<u>\$32</u>
vii) <u>14 Fr Foley hymenal exam</u>	<u>\$20</u>
viii) <u>Body forensic photography</u>	<u>\$20</u>

- e) Medications and procedures not listed in this section will be examined on a case-by-case basis for eligibility.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

History: Filed December 13, 2013